

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

DANIEL M. WILSON,

Plaintiff,

V.

OFFICER ANDERSON, *et al.*,

Defendants.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

Case No. 5:22-cv-01492-LCB-SGC

MEMORANDUM OPINION

This is a *pro se* lawsuit filed by Daniel M. Wilson pursuant to 42 U.S.C. § 1983. (Doc. 1). On March 3, 2023, the magistrate judge entered two orders: (1) an order noting fatal deficiencies in the complaint and requiring Wilson to amend; and (2) an order requiring Wilson to show cause as to why he should not be required to pay the balance of the filing fee following his release from prison. (Docs. 7, 8). After Wilson did not respond, the magistrate judge entered a report recommending his claims be dismissed for failure to prosecute. (Doc. 9). Wilson responded with a pleading styled as a “Motion to Show Cause,” which the Clerk of Court docketed as objections; he also filed an amended complaint. (Docs. 10, 11).

On June 2, 2023, the magistrate judge entered an order explaining that Wilson’s belated, amended complaint addressed one of the grounds on which the report recommended dismissal. (Doc. 12). However, the order went on to note that

Wilson still had not adequately responded to the show cause order regarding the filing fee. (*Id.*; *see* Docs. 8, 9).¹ Accordingly, the order required Wilson to address the filing fee issue by completing and returning a response form within fourteen days. (Doc. 12 at 2). The order closed by advising Wilson that, if he sufficiently addressed the fee issue, the magistrate judge would consider withdrawing the report and recommendation. (*Id.*). Wilson has not responded to the magistrate judge's order, and the deadline to do so expired on June 16, 2023.² Accordingly, Wilson has failed to prosecute his claims by twice ignoring orders to address the filing fee issue.


After careful consideration of the record in this case, the court **ADOPTS** the magistrate judge's report and **ACCEPTS** the recommendation. To the extent Wilson's "Motion to Show Cause" can be construed as objections, any objections are **OVERRULED**. Consistent with the report and recommendation, Wilson's claims are due to be dismissed for failure to prosecute. FED. R. CIV. P. 41(b)

A separate order will be entered.

¹ Wilson's Motion to Show Cause asked for *in forma pauperis* status. (Doc. 10). However, the magistrate judge's order to show cause required Wilson, at a minimum, to complete and sign a response form that would allow the court to assess his claim of indigency with some reliability. (Doc. 8 at 3-6; *see* Doc. 12 at 2).

² Because Wilson is no longer incarcerated, he does not enjoy the benefit of the so-called "prison mailbox rule."

DONE and **ORDERED** this July 5, 2023.

A handwritten signature in black ink, appearing to read 'L.C. Burke', is written over a horizontal line.

LILES C. BURKE
UNITED STATES DISTRICT JUDGE